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# A GUIDELINE FOR AMERINDIAN LAND TITLING IN GUYANA

Approved by the Amerindian Land Titling Project Board on 6<sup>th</sup> April, 2017

Endorsed by:

The Ministry of Indigenous People's Affairs on 28<sup>th</sup> April, 2017  
and

The United Nations Development Programme on 28<sup>th</sup> April, 2017

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6 April 2017**

**Adopted by**

Ministry of Indigenous People's Affairs:



Date: 28-04-2017.

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Hon. Sydney Allicock, M.P., Vice-President and Minister.

United Nations Development Programme:



Date: 7/4/2017

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Mikiko Tanaka, Resident Representative.

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## Purpose

The purpose of this document is to strengthen the effective implementation of the Amerindian Land Titling (“ALT”) Project and address concerns that have been raised internally and externally about elements of the project's implementation. The new “*Guideline*” is applicable to the implementation of the ALT Project and future Amerindian land titling processes otherwise performed by the Government of Guyana (“*Government*”) on behalf of Amerindians. It intends to address the three (3) points listed below:

- a) address how to carry out and strengthen Stakeholder engagement, including consultation and free, prior and informed consent (“*FPIC*”) processes;
- b) identify clear process and criteria for delimitation, demarcation and titling under the ALT Project; and
- c) develop grievance and dispute resolution mechanisms and processes to address conflicts that exist within and among Amerindian Communities/Villages, between Amerindian Communities/Villages and various other parties asserting claims to lands and resources claimed by Amerindian Communities/Villages, as well as grievances between Amerindian Communities/Villages and the Government.

## PART I:

### CRITERIA AND PROCEDURES FOR THE AMERINDIAN LAND TITLING PROCESS

1. The following are clarified criteria and procedures for conducting the process of titling Amerindian<sup>1</sup> lands, resources and territories. For purposes of these criteria and procedures, the titling process means the process that begins with a Community or Village request, the investigation, issuance of an Absolute Grant, survey and demarcation, through to final issuance by the Government of a Certificate of Title.<sup>2</sup> Said criteria and procedures shall be reviewed by the Government and Stakeholders every year to ensure consistency with any new regulations, policies, or law reforms and to identify areas for continued improvement in implementation.
2. Such criteria and procedures will be implemented so as to give effect to:
  - a) the constitutional recognition that “Indigenous peoples shall have the right to the protection, preservation and promulgation of their languages, cultural heritage and way of life” and that “every person, as contemplated by the respective international treaties set out in the Fourth Schedule to which Guyana has acceded is entitled to the human rights enshrined in the said international treaties, and such rights shall be respected and upheld by the executive, legislature, judiciary and all organs and agencies of Government...”<sup>3</sup>;
  - b) to the rights of the Amerindian peoples of Guyana to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired; and their right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired (hereinafter “*Property Rights*”);<sup>4</sup> and
  - c) the duties and obligations of Guyana to give legal recognition and protection to these lands, territories and resources.<sup>5</sup>

Guyana, in accordance with its Constitution and national norms, as well as the standards and requirements of the ALT Project, agrees that it will respect, promote and protect Amerindian Peoples’ Property Rights. The criteria and procedures set forth below, will be conducted with due respect to the customs, traditions and land tenure systems of the indigenous peoples concerned and the need to ensure meaningful and effective participation of all Stakeholders, as well as Consultation and the free, prior and informed consent (“*FPIC*”) of Amerindians.

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<sup>1</sup> This Guideline consists of three (3) Parts. Throughout this Guideline and each of its Parts, the term Amerindian and “Indigenous Peoples” are used interchangeably.

<sup>2</sup> All acronyms and defined terms apply consistently throughout all three Parts of this Guideline unless otherwise stated.

<sup>3</sup> Constitution of Guyana, Art. 149(g) & 154(A).

<sup>4</sup> United Nations Declaration on the Rights of Indigenous Peoples, Article 26; UNDP Social and Environmental Standards, Standard 6: Indigenous Peoples, Requirement 6.

<sup>5</sup> *Ibid.*

## I. THE REQUEST

### Communities with no titled Lands

3. According to the Amerindian Act, Section 60(1): An Amerindian community may apply in writing to the Minister of Indigenous Peoples' Affairs ("*Minister*")<sup>6</sup> for a grant of State lands provided –
  - a) it has been in existence for at least 25 years ("it" being the Community or Amerindian Peoples to which they belong);
  - b) at the time of application and for the immediately preceding five years, it comprised at least 150 persons.
4. **The application must include –**
  - a) the name of the Amerindian community;
  - b) the number of persons in the community (persons being "residents" of the Community as defined by the Amerindian Act; numbers can be sourced from national censuses, church records, birth records, Community records, etc.);
  - c) the reason for the application (including but not limited to a description of how the Community and its People have traditionally owned, occupied or otherwise used the lands requested, an explanation of their physical, traditional, cultural association with or spiritual attachment to the lands, any other information the Community deems relevant);
  - d) a description of the area requested (preferably a written description referring to identifying geographic features, as well as a map (sketched by hand is acceptable)); and
  - e) a resolution authorizing the application and passed by at least two thirds of the adult members of the Amerindian Community. (60(2))<sup>7</sup>
5. The application must be signed by at least four members of the adult community, and if the community has a Community Council (per sec. 85), at least four signatories must be members of this Council.<sup>8</sup> (60(3) and 60(4))

### Villages that have titled lands and are requesting extensions

6. Under Section 59(1) of the Amerindian Act, a Village may apply in writing to the Minister for a grant of State lands as an extension to its Village lands. The application must include –
  - a) the name of the Village;
  - b) the number of persons in the Village (persons being "residents" of the Village as defined by the Amerindian Act; numbers can be sourced from national censuses, church records, birth records, Village records, etc.);
  - c) the area of land which the Village already owns (i.e. the written description found in the Village's Absolute Grant, Special Provisions Plan ("*Grant Plan (map)*"), the Land Registration Plan ("*Cadastral Plan (map)*"), or Certificate of Title (preferably whichever holds the latter date);

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<sup>6</sup> This Guideline has changed the "Ministry of Amerindian Affairs" to "Ministry of Indigenous People's Affairs (hereinafter "Ministry") to respect the official name change that took place in 2015.

<sup>7</sup> All section numbers referred to in this Guideline refer to the Amerindian Act unless otherwise stated.

<sup>8</sup> Note: Not all communities that qualify for title lands may have Community Councils.

- d) the reason for the application (including but not limited to a description of how the Village and its People have traditionally owned, occupied or otherwise used the lands requested, an explanation of their physical, traditional, cultural association with or spiritual attachment to the lands, an explanation, if any, as to why said lands have not already been titled, any other information the Community deems relevant));
  - e) a description of the area (preferably a written description referring to identifying geographic features, as well as a map (sketched by hand is acceptable));
  - f) a copy of a resolution passed by two thirds of the Village general meeting, which authorizes the Village Council to make the application.
7. An application must be signed by the Toshao, Secretary and two other members of the Village Council. (59(2))
  8. The application must be accompanied by a plan (being the Grant Plan or the Cadastral Plan), showing the existing Village lands prepared by a qualified land surveyor on the basis of a survey authorized by the Guyana Lands and Surveys Commission (“GLSC”). (59(3))
  9. The State shall pay for the cost of the survey. (59(4))

## **II. THE MINISTRY’S PROCESSING OF THE REQUEST<sup>9</sup>**

### **Acknowledgment of the Request**

10. Under Section 61: Within one month of receiving the application for a grant of State lands or for an extension, the Minister shall respond in writing to the Community or Village (and adjoining villages) acknowledging receipt. To inform interested Stakeholders, within two (2) weeks of the Guyana Lands and Survey Commission (“GLSC”) completes the preliminary sketch plan (map) requested by the Minister, the Minister will also publish notice of the intention to process an application in a national newspaper for three (3) consecutive Saturdays.

### **The Investigation**

11. Within six months, the Minister will cause an investigation to commence. (61(2)) The investigation includes one or more onsite field investigations, and, among other activities, the dissemination of the application (request) and accompanying plan to relevant government ministries and commissions, initiating a budget proposal to process the application request, consolidating information about all rights and interests in the requested land, reflecting the request on a map, Consultations with Stakeholders, and soliciting additional information from the Community or Village in question. Technical meetings will be held before and after the field investigation. The investigation ends with the acceptance of the Final Investigation Report by the Minister.

The primary purpose of the investigation is to obtain and verify the following information:

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<sup>9</sup> While these Criteria and Procedure refer only to the Ministry, where titling of Amerindian lands is conducted under the ALT Project, it is understood that the ALT Project Manager continues its support role to the Ministry by running the project on a day-to-day basis on behalf of the Project Board within the constraints laid down by the Board and in coordination with the Ministry’s project office (i.e. organizing field visits, managing the project budget, etc.).

- a) a list of persons in the Amerindian Community or Village and the number of households;
- b) the names of the Amerindian peoples of the Village or Community;
- c) the length of time the Amerindian Village or Community has occupied or used the area requested;
- d) the use which the Village /Community makes of the land and its resources (historic and actual uses including but not limited to hunting, gathering, farming, burial, spiritual activities, medicinal uses, conservation/preservation, and other traditional livelihood activities (identifying seasonal, periodic and permanent uses));
- e) the size of the area occupied or used by the Village or Community;
- f) a description of the customs or traditions of the Village/Community (including those practices and activities necessary for their physical and cultural survival as Amerindian peoples --as evidenced through, among other things, the sharing of traditional knowledge and practices, oral history, customary tenure systems, maps and resource studies made by them);
- g) the nature of the physical, economic, social, cultural, spiritual and traditional relationship that the Village or Community has with the land and its resources (including, their relationship as derived from, among others, the oral history of the people, stories of the different groups within the Village or Community (women, hunters, shaman(s), gatherers, fishers, etc.), legends, cosmovision, customary tenure systems, norms and values);
- h) any interests or rights in or over the area of land requested (including but not necessarily limited to other titles, grants, permits, licenses, concessions, leases, protected areas, and overlapping applications for the same (including from other Amerindian Villages or Communities, the mining, forestry, protected areas, or agricultural sector or other private individuals));
- i) whether there is a school, health centre or other initiative by the Amerindian Village/Community or Government; and
- j) any other information which the Minister reasonably considers to be relevant (61(2)), which in exercise of his/her discretion is determined at this time to include, at a minimum, those materials offered pursuant to paragraph 12 below, as well as the following:
  - (i) resource management plans and land use and occupation maps produced by the Community and Village in question and/or in conjunction with the Government;
  - (ii) information about potential and existing overlapping claims and/or common boundaries with neighboring Amerindian Villages or Communities (including through a review of other Amerindian land applications in the area/region);
  - (iii) identification of the Village or Community's nearest neighbors;
  - (iv) relevant reports and studies of Amerindian civil society and non-profit organizations; and
  - (v) any other information relevant for determining the Property Rights of the Amerindians in question, including their physical, traditional, cultural association with or spiritual attachment to the land requested.

12. During the investigation period, per the Amerindian Act the Minister may accept information comprising the following, and in exercise of that discretion, the Minister has agreed to do so whenever it is freely offered by the Village or Community:

- a) oral or written statements from the Amerindian Village or Community (including, but not limited to testimony from elders, resource users, and others with knowledge of the Village or Community's actual and traditional ownership, use and occupation and customary land tenure systems);
- b) authenticated or verified historical documents;



- c) sketches and drawings prepared by the Amerindian Community or Village (including maps prepared by them or in conjunction with the Government);
- d) surveys prepared or authorized by the Guyana Lands and Surveys Commission (“GLSC”);
- e) photographs;
- f) reports or documents from anthropologists or archaeologists;
- g) information in any other form which the Minister reasonably believes is appropriate (61(3)) and relevant for determining the Property Rights of the Amerindians in question, including their physical, traditional, cultural association with or spiritual attachment to the land requested, and the extent to which other rights or interests may exist within the requested lands.

13. During this period of investigation, a number of standard procedures are followed:

14. The Minister writes to the GLSC transmitting a copy of the Community or Village application and requesting:

- a) that the sketch or description of the area provided by the Community or Village be converted into a preliminary sketch plan (map) and description of the proposed area; and
- b) that the GLSC conducts a full title search, subject to the Advance Team Visit as needed (see paragraphs 18-19 below) and provides the Ministry with the names of any lessee or grantee, as well as details regarding the same -- identifying the type of interest (provisional lease, absolute grant, agricultural lease etc.), date of issuance, period of lease, the location and size, and any pending applications. The GLSC will also identify any overlapping and/or contiguous lands designated as part of the protected area system of Guyana. This information will be reflected on the preliminary sketch plan (map) along with the appropriate explanatory indexes and descriptions.

15. The Minister sends the preliminary sketch plan (map), indexes and description produced by the GLSC -- as reflected in the Geographic Information System (GIS) database and sent in the format of the “shape file” depicting the Amerindian request area -- to the Protected Areas Commission (“PAC”), Guyana Forestry Commission (“GFC”) and the Guyana Geology and Mines Commission (“GGMC”), requesting that they indicate any comments or concerns that they may have with the requested area. If there exist any missing protected area information or any forest or mining concessions, permits, leases, licenses or other conflicting land uses within or contiguous to the requested area or that may otherwise have a potential effect on the way of life of the Amerindians in question<sup>10</sup>, the relevant Commission must indicate this. The relevant Commission will identify the type of interest (i.e. protected areas, prospecting license, small/medium/large scale mining permit, special mining permit, claim license; forestry leases, grants, and exploratory permits for forest produce, etc.), date of issuance, term of the interest in question, the location and size, relevant renewal or relinquishment periods, and any pending applications.

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<sup>10</sup> See Constitution of Guyana, Art. 149G (“Indigenous peoples shall have the right to the protection, preservation and promulgation of their languages, cultural heritage and way of life”); see also *Thomas and Arau Village Council v Attorney General of Guyana and another*, No. 166-M/2007, HC of Guyana, unreported decision, 30 April 2009 (finding that the Government (including GGMC) has a duty under Article 149G of the Constitution “to make all reasonable efforts” to ensure that existing or future mining activities do not diminish “the usufructuary value [of the] land to the way of life of the applicants as an indigenous people” such that when evaluation mining applications, the GGMC “must take into consideration” the potential effects on the way of life of Amerindian occupants.

16. This information will be inserted by each Commission on the respective preliminary sketch plan (map) along with the appropriate explanatory indexes and descriptions.

### The Field Visit(s)

17. The Minister or an Officer of the Ministry delegated by the Minister visits the Community or Village to hold a Consultation which is attended by the Village or Community members, as well as representatives of the GLSC, and if necessary,<sup>11</sup> GFC, PAC, and GGMC and any other Stakeholders who may reasonably claim to have an interest in the area of land requested (the “*Primary Field Investigation Visit*”). (If the understandings reached with the Village or Community requires it, the Ministry will meet separately with other Stakeholders (miners, loggers, agricultural lessees, etc.) rather than at the same time alongside of the Amerindian Community or Village).<sup>12</sup>

- Advance Team Visit

18. Prior to the initiation of the *Primary Field Investigation Visit*, provided there is at least two (2) weeks advance notice to the Community/Village in question and an agreed upon date, an Advance Team may be sent to the Community or Village composed of a representative from the Ministry, the ALT Project Surveyor<sup>13</sup>, and the GLSC and/or other Commissions identifying an institutional need to participate in the Advance Team Visit. This is a scoping visit, not a full investigation visit. The primary reasons to authorize an *Advance Team Visit* are as follows:

- (a) difficulties in mapping the Village/Community sketch plan (map) and description of their requested area absent clarifying information more easily obtainable on the ground<sup>14</sup>;
- (b) available electronic and hard copy records for the requested area are deemed insufficient by GLSC, GGMC or GFC to determine third party rights and interests (absent ground truthing);
- (c) additional information about key areas of actual and traditional ownership, use and occupation by the Community and Village would better clarify the scope, resources and time allocations required for the Primary Field Investigation Visit to come; and
- (d) indications exist that there may be Community or Village disagreement with the request as filed such that a new application may be advised prior to the *Primary Field Investigation Visit*.

19. After a preliminary review of the application, in Consultation with the GLSC, GFC, PAC, and GGMC, the Ministry may determine that the *Advance Team Visit* is *not* necessary if none of the reasons above are present and/or it would only duplicate work that can be done remotely and/or be

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<sup>11</sup> If there are no protected areas, mining or logging interests in the requested area of land, PAC, GFC and GGMC need not attend the *Primary Field Investigation Visit*.

<sup>12</sup> Consultations with non-Amerindian or Government Stakeholders will be carried out consistent with Part II of this Guideline (*Stakeholder engagement, Consultation and FPIC*).

<sup>13</sup> Applications processed outside of the ALT Project do not require the project’s surveyor.

<sup>14</sup> Where 18(a) is the issue, the ALT Project Manager will discuss with the GLSC to establish, as a matter of efficiency, if an *Advance Visit* by only the ALT Surveyor is sufficient to secure the outstanding information needed by GLSC to produce the sketch plan (map). GLSC may of course accompany the ALT Surveyor if it so chooses.

adequately completed with the resources and time periods scheduled for the *Primary Field Investigation Visit*.

- Primary Field Investigation Visit

20. The *Primary Field Investigation Visit* is led by the Ministry<sup>15</sup>, joined by representatives the GLSC, National Toshias Council (“*NTC*”), where relevant one or more of the GFC, PAC, GGMC, and when implementing land applications under the ALT Project, the United Nations Development Programme (“*UNDP*”). Where interest is expressed, logistics will support, and the Indigenous Peoples’ Commission (“*IPC*”) and any national indigenous peoples organisation can self-fund, a representative of the IPC or said organisation may observe the *Primary Field Investigation Visits*.

- Notice and Prior Information

21. The Ministry will send to the Community or Village in question, at least two (2) weeks’ in advance, a notice of the *Primary Field Investigation Visit*. The Ministry and Community or Village will agree on the dates of the visit to ensure the maximum participation of the Amerindian people involved and preparedness of the Government delegation as well as the Community and Village. (For the avoidance of doubt, the *Primary Field Investigation Visit* involves exchanges and presentations with Village/Community members attending a general meeting).

22. All documents (copies of the initial request, maps for discussion, documents explaining the titling procedures (such as this Guideline), etc.) to be discussed in the meeting will be forwarded a minimum of two (2) weeks in advance of the scheduled visit to the Community or Village. As appropriate, these materials will be clearly marked as “drafts” to avoid misuse or misinterpretation.

### *Agenda*

23. The Community or Village will be informed of the proposed agenda of the meeting which will include, at a minimum, to:

- a) discuss their application;
- b) verify the Community or Village’s agreement with the lands requested;
- c) explain the titling procedure and answer questions and concerns about the same;
- d) examine the Community or Village’s actual and traditional ownership, use and occupancy over the requested area;
- e) investigate and discuss any other rights and interests potentially overlapping their requested area; and
- f) commence an onsite field investigation to among other things, gather relevant GPS points of key geographic features, such as boundary points, needed for preparation of the Special Provisions Plan (this is obtained with the assistance in the field of knowledgeable Village/Community members).

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<sup>15</sup> As indicated earlier, where titling is done through the ALT Project, the Ministry would lead the visit in coordination and with the support and participation of the ALT PM.

The Community or Village may communicate additional agenda items to the Ministry, preferably in advance of the actual visit to ensure preparedness.

24. The Community or Village will be encouraged to make available to the visiting team those that have particular knowledge about the actual and traditional ownership, occupation and use of the lands and resources that fall within their grant or extension request. Individuals that may accompany the government team to verify points in the field will be authorized in writing by the respective Village or Community Councils.

#### *Information about the Titling Process*

25. At the start of the *Primary Field Investigation Meeting*, the Ministry will provide full details regarding how the Community or Village's request will be processed in accordance with the land titling process in Guyana. The information provided will include, at minimum:
  - a) an affirmation that the Community and Village have rights to the lands they have traditionally owned, occupied or otherwise used or acquired;
  - b) a full description of the land titling process from receipt of the request, to the Absolute Grant, demarcation, and Certificate of Title;
  - c) the sequencing and legal difference between the Absolute Grant and Certificate of Title;
  - d) the sequencing and difference between the Special Provisions Plan (hereinafter "*Grant Plan (map)*") and the Land Registration Plan (hereinafter "*Cadastral Plan (map)*");
  - e) the Government's intended treatment of third party rights within the requested area;
  - f) the respective responsibilities and intended contributions of the Government (the Presidency, each of its Ministries, and Commissions) and the Community or Village at each step;
  - g) the activities that will require Community or Village Consultation and consent<sup>16</sup>; and
  - h) the availability and accessibility of an Amerindian Land Titling Grievance Redress Mechanism (the "*ALT GRM*").

If an *Advance Field Visit* is done, at a minimum, the information about the titling process described in this paragraph should be done by the Ministry representative, and repeated at the start of the *Primary Field Investigation Visit*.

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<sup>16</sup> For the avoidance of doubt, Amerindian "agreement", "certifications", "consent" or "approval" to a Government action or document as referred to in this Guideline is the same as requiring "FPIC" unless otherwise stated.

### *Mutual understandings regarding the Way Forward*

26. Minutes signed by the authorized representatives of the Ministry and Village/Community, after being read out loud at the close of any Consultation with Stakeholders, will describe all key matters discussed, agreed upon, and left pending for further comment or action. In the case of the *Primary Field Investigation Visit*, these minutes will reflect the mutual understandings, at a minimum, around the following issues:
- a. the area requested;
  - b. any underlying principles that may provide a foundation for future engagements (applicable standards, good faith, mutual respect, transparency, etc.);
  - c. the process for revising the grant/extension request if needed;
  - d. the way forward if an extension request is based upon prior demarcation errors;
  - e. the schedule of the titling process (anticipated timelines and activities, future Consultations)
  - f. the manner in which the Amerindians will participate in the investigation and further titling process (accompanying in the field; sharing knowledge of traditional ownership, use and occupation; joint mapping, surveys and demarcation; sharing of customary laws/land tenure systems, oral history, etc.)
  - g. the process for sharing and verifying information about third party interests in the requested area and determining their future status;
  - h. all activities that will require Community/Village Consultation and Consent;
  - i. the Community and Village methods of decision making, particularly where consent, approval and agreement are required by this Guideline;
  - j. the process to elaborate, secure and incorporate Community/Village views on the Investigation Report;
  - k. methods to strengthen ongoing communication;
  - l. any other matter deemed relevant to the parties.

*(\*Read the above together with paragraphs 14-15 of Part II of this Guideline (Stakeholder Engagement, Consultation and FPIC))*

### *Third Party Interests*

27. During the *Primary Field Investigation Visit*, representatives from the Ministry and relevant commissions will present one or more maps and corresponding explanatory indexes and descriptions identifying where third party rights and interests, including national protected areas and other Village or Community titling requests, may overlap the area under request. The Ministry will make every effort to ensure that all overlapping rights and interests are known, presented and explained during this Primary Field Investigation Visit. (Incomplete information may give reason for additional visits to ensure that Community and Villages are making informed decisions when reaching agreement on the Minister's decision per paragraphs 42 and 44 below.)
28. The Ministry and other Government representatives will discuss with the Villages and Communities any further measures that may be available or required to address and determine the status of third party rights and interests going forward.

### *Neighboring Villages and Communities*

29. Prior to the field visits, the Ministry will cross check other Amerindian applications in the area to assess the overlap potential. When it becomes known during the *Primary Field Investigation Visit* or earlier that the application describes lands that may share a common boundary at present or in the future with another Amerindian Village or Community or overlap claims with another Village or Community, the Ministry will:
- a. arrange Consultations with the neighboring Villages or Communities on the same;
  - b. assess whether there are Village or Community applications that could be considered at the same time if processing in a particular sequencing might otherwise generate conflict;
  - c. take steps to ensure proper notification is given to neighboring Villages and Communities to observe the survey and demarcation activities;
  - d. determine if talks between and among Villages and/or Communities may be warranted and what, if any, assistance the Ministry or ALT GRM may provide to the same.

### *Grant Request Verification*

30. If during the *investigation*, it becomes clear that the application request is not verified by the Community or Village, but rather an amended application is requested, the Village or Community in question will convene a general meeting (if not then, at a later date) so that a resolution can be passed by two thirds of the Village general meeting authorizing the Village to make the revised application or at least two thirds of the adult members of the Amerindian Community to make the revised application for a Community.
31. As soon as a revised application is submitted, the Ministry will request the GLSC to prepare a new preliminary sketch plan (map) of the area, reflect it in the Geographic Information System (GIS) database, and immediately send the revised “shape file” depicting the new request area to all government ministries, agencies and commissions that may oversee activities in the area (leases, permits, concessions, protected areas, etc.).

### *Geographic features*

32. During the field visits, review of all maps and area descriptions, the parties will share their understandings about the specific names of key geographic features. To the extent permitted by law, efforts will be made to have the names as they appear in the Gazetteer of Guyana and, if different, as known by the Community or Village making the request and its Amerindian neighbors, noted and reflected in the final Absolute Grant, the Grant Plan (map), Cadastral Plan (map) as registered, and the Certificate of Title. Such efforts will ensure that that the whole public (including those living in the region) understands the boundaries in question and help to avoid future conflict.

### *Number of Field Visits*

33. In certain circumstances it may be the case that only the *Primary Field Investigation Visit* will be needed to gather the required information for preparing the Investigation Report and permit a decision by the Minister. However, additional Village or Community Consultations and field visits may be conducted as deemed appropriate or where agreed previously with the Village or



Community. These may be particularly warranted where, among others, outstanding information needs to be compiled, explained, or further agreed upon.

### *The Investigation Report*

34. A Provisional Investigation Report (including the latest sketch plan (map)) will be prepared by the Ministry no later than two (2) months from the Primary Field Investigation Visit or from the last onsite field investigation. The report will address all of the objectives of the investigation and the information collected per this Guideline, describe the Consultations to date, provide recommendations and attached the latest sketch plan (map) to be the basis of the future Grant Plan (map) accompanying the Absolute Grant.<sup>17</sup>
35. Upon completion, the Provisional Investigation Report will be shared with the NTC and all Ministries and Commissions that have participated in the investigation of the application in question, as well as the UNDP.<sup>18</sup> Each shall have a period of thirty (30) days to submit any comments, additions or objections. The Ministry will have four (4) weeks to make any revisions and then share the complete revised Provisional Investigation Report with the Community or Village in question. Unless otherwise agreed with the Community or Village, they will have six (6) weeks to prepare and submit in writing their own comments, additions or objections.
36. The Community or Village's *response* to the report will be affirmed through a written resolution made by two thirds of the Village or Community general meeting. During the six (6) week period the Community or Village also may request that the Ministry clarify and explain issues reflected in the report, including through an additional onsite visit if said issues cannot be resolved remotely.
37. The comments of the Community or Village will be fully reflected in the Final Investigative Report, or otherwise reconciled to their satisfaction. If reconciliations are not possible that are likely to affect the agreement required at paragraphs 42 and 44 below, the Ministry will initiate renewed talks with the Community or Village with the aim of resolving points of difference. The ALT GRM may also be triggered. If a resolution is not readily possible, the points of differences then will be reflected in the Final Investigation Report before being sent to the Minister.
38. A copy of the Final Investigation Report will be provided to all of the original recipients of the provisional report.
39. Investigation Reports that have not been shared with the NTC, relevant Commissions and subject Community or Village upon the adoption of this Guideline and which have not yet resulted in the issuance of an Absolute Grant, will be shared with these Stakeholders for information.

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<sup>17</sup> As agreement with the Community or Village will require the prior review of the proposed Absolute Grant and Grand Plan (map), *where possible*, it is recommended that the proposed grant and plan be attached to the Provisional and Final Investigation Reports.

<sup>18</sup> The report will be shared with the UNDP as long as the ALT Project exists and UNDP is involved in the same.

## Ministerial Decision

40. Based on the final investigative report as delivered to the Minister, and after discussion with the Community or Village and other relevant Stakeholders, the Ministry re-submits the preliminary sketch plan and description to GLSC indicating any changes to be made to the proposed boundaries.
41. The preliminary sketch plan and description are amended accordingly by the GLSC and returned to the Ministry, and will be shared with the relevant Stakeholders.
42. The Minister makes a decision on the Community or Village request:
  - a. If, in the view of the Minister, the application is straight forward and s/he proposes to approve the request without change, the Minister's decision is submitted to the Cabinet Sub-Committee on Amerindian Affairs and Natural Resources for no-objection.
  - b. If the application is not straight forward and further negotiations are required, the Minister will commence negotiation with the Community or Village. Once negotiations are completed and an agreement is reached between the Ministry and the Community or Village in question, the Minister's decision is submitted to the Cabinet Sub-Committee on Amerindian Affairs and Natural Resources for no-objection. If the decision results in a new sketch plan being prepared that plan is shared with the relevant Stakeholders.
  - c. The agreement mentioned in sub-section (b) above will be secured in accordance with Part II of this Guideline (*Stakeholder Engagement, Consultation and FPIC*). Before agreement is reached, the Ministry will ensure that the Community or Village has a copy of the proposed Absolute Grant and the Grant Plan (map), and an identification and description of all third party interests that will reduce the area they requested.
  - d. Once the Minister's decision is made with agreement of the Community or Village, the Minister will take reasonable efforts to have it put before and decided upon by the Cabinet within a period no greater than two (2) months.
43. Under Section 62 of the Amerindian Act, the Minister will make a decision within six (6) months of the investigation being completed. The Minister will decide if the request, in whole or part, reflects the Property Rights of the Amerindian Community or Village in question. In making a decision the Minister:
  - a) shall take into account all information obtained in the investigation, including the information listed in and gathered per Paragraphs 11 and 12; and
  - b) consider the extent to which the Amerindian Village or Community has demonstrated a physical, traditional, cultural association with or spiritual attachment to the land requested.
44. If there is no agreement between the Ministry and the Community or Village in question, or if agreement is reached but the Cabinet then objects and the Minister proposes a new decision, the Ministry will initiate renewed talks with the Community or Village with the aim of reaching

agreement and resolving points of difference. In the case where the Minister proposes a new decision, a written explanation providing clear reasons for the new decision and the information and materials relied upon, will be provided to the Community or Village in question. In the end, if agreement is not readily possible, the ALT GRM may also be triggered.

### III. ISSUANCE OF THE LAND GRANT

45. Upon receiving the consent of the Community or Village, the Minister will forward the grant decision to the President for signature pursuant to the State Lands Act. Section 63(1) of the Amerindian Act states that: "If an application is approved, title shall be granted under the State Lands Act".
46. Under the State Lands Act, Section 3, the President may make absolute or provisional grants of any State lands of Guyana, subject to such conditions as he thinks fit or as are provided by the regulations for the time being in force. The regulations to the State Lands Act also specifies that the issuance of a grant of State lands requires that the tract of land being granted must be surveyed by a Sworn Land Surveyor (Section 18(1)), unless the area has previously been surveyed (Section 19(1)) or if the land is bounded by creeks or other well-defined limits (Section 19(2)).

### IV. SUMMARY OF TITLING PROCESS

47. In practice, the criteria and procedures described above mean that the granting of title to Amerindian lands (whether an initial grant or an extension request) involves four distinct steps:
  - a. Preparation of a Grant Plan under the (Surveys) Special Provisions Act.
  - b. the issuance of an Absolute Grant of land by the President to the Community (in the case of an initial request) or Village (in the case of an extension request);
  - c. the conduct of a participatory cadastral survey and demarcation of the granted lands; and
  - d. the subsequent issuance of a Certificate of Title to the Community or Village.

#### Absolute Grant

48. The issuance of an **Absolute Grant** involves the following procedures:
  - a. The Minister makes a final decision on the Community or Village request (following the process described herein).
  - b. The Minister writes to the GLSC requesting that the Absolute grant be prepared.
  - c. A Special Provisions Plan (which is a map produced from aerial photography and using existing records) (the "Grant Plan (map)") and the Absolute Grant, are prepared by GLSC.
  - d. The Commissioner of Lands and Surveys endorses the Grant, which is then sent to the Office of the President for his/her signature.
  - e. The Absolute Grant, along with a certified copy of the Grant Plan (map), is then issued to the Community or Village by the President at no cost.
  - f. Under Section 63(2) of the Amerindian Act, in the case of a Village, title is granted to the Village Council to be held for the benefit of the Village. In the case of an Amerindian Community, the Minister shall by order establish a Village Council to hold title on behalf of the applicant Community, and upon the grant of a title the Amerindian community becomes a Village. (63(3))

- g. The Village and Community are encouraged to: maintain its copy of the grant and plan, ensure its understanding among all Village and Community members, and ensure that it is handed over from one Village Council to the next.
- h. The plan referred to in the Absolute Grant shall be the plan to be used by all relevant Stakeholders prior to demarcation. This information will be communicated to the villages.

### Cadastral Survey and Demarcation

49. The conduct of the Cadastral<sup>19</sup> survey and Demarcation involves the following procedures:

- a. After having received an Absolute Grant from the President, upon approval made by two thirds of a general meeting, the Village may request to have their lands surveyed and demarcated (physical marking placed on the boundaries of their land). While demarcation is optional, demarcation is required before the Village can receive a Certificate of Title.
- b. The Village writes to the Ministry requesting that their lands be demarcated.
- c. The Ministry will initiate the survey<sup>20</sup> and demarcation process within a period of three (3) months from the receipt of the request.<sup>21</sup>
  - *Ministry coordinates with GLSC<sup>22</sup>*
- d. To initiate the process, the Ministry writes to the GLSC to inform them of the request and that funds have been allocated for the surveying<sup>23</sup>, and ask that the process for surveying commences.
- e. GLSC advertises for surveyors<sup>24</sup> or uses in-house surveyors.<sup>25</sup>
- f. A surveyor is contracted to conduct the cadastral survey.
- g. The GLSC advises the Minister of the contractor's readiness to commence the survey.
  - *Consultation before Survey and Demarcation*
- h. Prior to the mobilization of the survey team to the Village, and with at least two (2) weeks prior notice, the Ministry -- together with the head of the intended GLSC surveyor team and --if demarcation is being done through the ALT Project, the ALT surveyor-- will hold

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<sup>19</sup> Wherever mention is made of cadastral survey it is understood that the relevant Village or Community participates in such survey.

<sup>20</sup> These criteria and procedure assume the Government is taking the lead to secure the survey and demarcation. This is without prejudice to the continuing right of the Amerindian Village, now in possession of an Absolute grant over private (and not State) lands, to take the initiative and hire its own private contractor to conduct the survey and demarcation activities.

<sup>21</sup> Demarcations not already financed under the ALT Project may require a budget request before the legislator, prolonging commencement.

<sup>22</sup> Subsection 49 (d) thru (g) do not apply if the Community or Village chooses to use a private surveyor instead of soliciting demarcation from the Government.

<sup>23</sup> An estimate of the survey team costs as well as a breakdown is requested by the Ministry so that a contract agreement can be signed between the Ministry and GLSC (or if titling is done through the ALT Project, among the Ministry, GLSC, and UNDP).

<sup>24</sup> Under the Land Surveyors Act, surveying of the land must be done by a Sworn Land surveyor in Guyana (i.e. certified by the Board of Examiners in Guyana).

<sup>25</sup> If the GLSC informs the Ministry that it lacks the capacity at the time to commence the survey, the Ministry can employ a private surveyor with the GLSC providing supervision and certification of the survey.

a Consultation with the Village to discuss the cadastral survey and demarcation process.<sup>26</sup>  
The delegation will:

1. explain how the Absolute Grant and Grant Plan (map) will be the basis upon which the survey and demarcation is carried out, specifically in the identification of the relevant boundaries;
2. inform the Village that a surveyor has been selected to conduct the survey and identifies the surveyor(s) intending to visit the Village to conduct the survey and demarcation;
3. explain how the survey team has been instructed to address the presence of other interests within the requested area (whether they have been instructed to survey and demarcate around them thereby excluding them from the eventual Cadastral Plan and Certificate of Title, or whether they have been instructed to include them in the final title);
4. explain that a cadastral survey is carried out in accordance with the State Lands Act, the Land Surveyors Act, the Land Registry Act, and any other Act which may be relevant, and in accordance with GLSC's standard operating procedures;
5. reach mutual understandings with the Village about the specific names of key geographic features found on the map and relevant for the survey and demarcation (to the extent permitted by law, the names as they appear in the Gazetteer of Guyana and as known by the Village (if different), and its Amerindian neighbors (if applicable), will be noted and reflected in the final Cadastral Plan (map).
6. standard operating procedures for surveying and demarcating will be explained, for example:
  - a) if all or part of the area is bounded by creeks or other natural or well-defined boundaries, it is not necessary to demarcate these stretches of the boundary;
  - b) if the area lies on an international border, a buffer zone of 300 yards along the border must be observed;
  - c) if a boundary is not accessible, a paal (marker) may be placed in its proximity and the Cadastral plan will state the direction and distance away from the true position; and
  - d) the specific treatment under the law of navigable rivers in any State Land Survey where applicable.

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<sup>26</sup> This provision assumes that the Amerindian Village or Community has requested the Government to conduct the demarcation and has not hired a private surveyor, which is their right.

- *Prior Information to Neighbors*
  - i. The Ministry by letter will also inform neighboring Amerindian Villages and Communities in advance of the intended survey and demarcation exercise, especially those that currently share, or may share, a common boundary with the lands to be surveyed and demarcated or otherwise have an overlapping claim. If such Villages and/or Communities exist, they will be invited to send one or more representatives to observe the activities.
- *Village Participation in Survey and Demarcation Activities*
  - j. At least three members of the Village are employed as part of the team that conducts the cadastral survey and demarcation. The Village Council will authorize in writing the Village members designated to assist and advise in these activities.
  - k. Prior to the survey team's departure, unless another decision making mechanisms is identified by the Village, the Village Council will place in writing the Village's approval, as confirmed by resolution of two thirds of a Village general meeting, of the survey and demarcation exercise that has just taken place. The approval (or objection in whole or part) will be scanned and attached to the Cadastral Plan.
- *Next steps*
  - l. Upon completion of the cadastral survey as approved by the Village, the Ministry and survey team will return to their offices and the GLSC will finalize a Land Registration Plan ("Cadastral Plan (map)"), which is a map showing the accurate boundaries of the area after demarcation and recorded at the GLSC.

As this plan is more precise and may now differ from the Grant plan previously accompanying the Absolute Grant and reviewed by the Village, the Cadastral Plan (map) must be endorsed by written resolution made by two thirds of a Village general meeting.. A copy of the written resolution will be transmitted by the Village Council to the Ministry and GLSC.

50. If the Village consent to the Cadastral Plan (map) is not forthcoming, the Ministry will initiate renewed talks with the Village with the aim of reaching agreement and resolving points of difference. If a resolution is not readily possible, the ALT GRM may also be triggered.

#### **Certificate of Title upon completion of the Cadastral Plan**

51. The issuance of the Certificate of Title involves the following procedures:

- a. A first registration letter is prepared by the Cadastral Section of the GLSC,<sup>27</sup> and sent to the Ministry for the Minister's signature. This letter indicates that the Absolute Grant and Grant Plan (map) will be lodged with the Registrar of Lands under the Lands Registry Act, in order to be replaced with a Certificate of Title and the Cadastral Plan (map).

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<sup>27</sup> Under Section 46 of the Land Registry Act Cap. 5:02.



- b. The Ministry adopts the letter and sends it to the Registrar of Lands for preparation of the Certificate of Title.
- c. The Registrar of Lands prepares the Certificate of Title, based on the Cadastral Plan (map), in favour of the Village Council, and sends it to the Ministry.
- d. The Certificate of Title is issued to the Village by the Ministry along with a certified copy of the Cadastral Plan (map) at no cost.
- e. The Village is encouraged to: maintain its copy of the Certificate of Title and Cadastral Plan (map), ensure its understanding among all Village members, and ensure it is handed over from one Village Council to the next.
- f. The final Plan is shared with relevant Stakeholders (in shape file format).

## **V. DISPUTE RESOLUTION**

52. There may be cases in which the Community or Village and the Ministry cannot come to an agreement on the area of land that the Community or Village can reasonably request title to.
53. A Village or Community may address its grievances to the Amerindian Land Titling Grievance Redress Mechanism (“*ALT GRM*”) and in doing so, request mediation or facilitation, as well as maintain available all other existing rights to redress that may exist (i.e. the GLSC Dispute Resolution Committee; the Ombudsman’s office; project/institutional mechanisms (i.e. UNDP Stakeholder Response Mechanism); and other judicial or administrative measures available within Guyana). The Amerindian Act also makes provision for judicial settlement.
54. The Amerindian Act makes provision for a Community or Village to challenge the decision of the Minister, under Article 64 which states:
  - a) “An Amerindian village or community which is dissatisfied with the Minister’s decision [...] may apply to the High Court for review of the decision”.

## PART II

### STAKEHOLDER ENGAGEMENT, CONSULTATION AND CONSENT (FPIC) FOR THE AMERINDIAN LAND TITLING PROCESS

1. The following provides a Guideline for carrying out continuous Stakeholder Engagement as part of the process of titling Amerindian lands in Guyana. It assumes --building upon the Stakeholder engagement plan identified at the commencement of the Amerindian Land Titling (“ALT” Project -- that relevant Stakeholders have already been identified, and additional Stakeholders may be added as each grant application and its relevant land area are reviewed and new Stakeholders are identified.
2. This Guideline has as its purpose the development of good faith Consultation processes with Stakeholders as well as Free Prior and Informed Consent (“FPIC”) processes with Amerindians.
3. Where the Ministry of Indigenous Peoples’ Affairs (“Ministry”) is not leading or otherwise present in a given Stakeholder Engagement, Consultation or FPIC process, but rather one or more other Government of Guyana (“Government”) ministries, commissions or agencies, this Guideline and the requirements herein still apply. The responsibility for Stakeholder Engagement, Consultation and FPIC is a State duty and obligation and as such, all ministries, commissions and agencies will follow this Guideline when engaging Stakeholders on matters related to Amerindian land titling.

#### **I. DEFINITIONS**

4. For purposes of this Guideline, the following definitions will apply:

“Stakeholders” mean those groups that have a stake/interest/right in the land titling process and those that will be affected either negatively or positively by land titling activities.

“Stakeholder Engagement” is a duty and obligation of the State and involves fostering a continuous process of transparency and information exchanges whereby meaningful and effective participation of Stakeholders is guaranteed throughout the lifetime of the titling process.

“Consultation” is a duty and obligation of the State whereby transparent engagements are conducted in good faith with those Stakeholders that may be affected by Amerindian land titling process and carried out with the objective of reaching agreement. Where conducted with Amerindians, such Consultations are carried out in a culturally appropriate manner and respects the norms, values and customs of the peoples in question.

“Free, Prior and Informed Consent” or “FPIC” is a duty and obligation of the State whereby through transparent and good faith Consultations, FPIC must be secured from Amerindians on any matters that may affect their rights and interests, lands, resources, territories (whether titled or untitled to the people in question) and traditional livelihoods of the indigenous peoples concerned. This includes any activities related to the Amerindian titling process that will determine the extent to

which Amerindians will maintain interest in lands they have traditionally owned, occupied and used.

## II. STAKEHOLDER ENGAGEMENT

5. As Stakeholder Engagement is not just a one off-process, the Ministry and all ALT GRM Liaison Institutions<sup>28</sup> will work continuously, individually and collaboratively, to identify methods, measures, and key moments related to the process of titling Amerindian lands where the sharing and collecting of information and opinions among Stakeholders can be maximized and the awareness of this Guideline can be increased (including through the use of the ALT's Communication Strategy).
6. While the primary beneficiary of the land titling process is Amerindian Communities and Villages, these are not the only Stakeholders. The Stakeholders include the various Government ministries, commissions and agencies, as well as interested third parties such as the National Tshaos Council ("NTC"), other Amerindian non-profits and civil society organizations, miners, forest producers, farmers and other private holders of rights and interests that may be contiguous to or overlap the area subject to the Amerindian application request.
7. As a start, to inform all interested Stakeholders, within two (2) weeks of the Guyana Lands and Survey Commission ("GLSC") completing the preliminary sketch plan (map) requested by the Minister, the Minister of Indigenous Peoples' Affairs ("Minister") will also publish a notice of the intention to process an application in a national newspaper for three (3) consecutive Saturdays.
  - Government Stakeholders
8. The Ministry will work with the relevant Government Stakeholders to ensure that mechanisms are in place to allow for increased Consultation among and between them.
9. Government Stakeholders will share with each other relevant information about existing and pending (as applied) State and third party interests or rights in the areas that are subject to land applications received from Amerindian Villages or Communities. Such sharing will make it possible for the GLSC and Ministry, respectively, to eventually produce and present to the Community/Village a single map reflecting all third party rights and interests (including protected areas) along with a combined set of explanatory indexes and descriptions. (While a single map is preferred, where the overlapping interests and claims are too extensive and representation in a single map would reduce, rather than increase clarity, the presentation of more than one map will be expected).
10. The Ministry will ensure that the provisional Investigation Report is submitted in advance to the Government Stakeholders to secure their comments and proposed revisions. A final report will be copied to each.

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<sup>28</sup> Defined by Part III of this Guideline as the Ministry, MNR, GFC, GGMC, GLSC, PAC, IPC, NTC, National indigenous Peoples' Organisations, and the UNDP.

11. The Ministry and GLSC will particularly coordinate regularly and take the necessary measures in Consultation, one with the other, to ensure that updated "shape files" are entered into the nation's GIS system depicting the lands subject to Amerindian Community and Village applications. Where there are subsequent revisions made to land applications (whether arising from Consultations conducted during field investigations or through the receipt of new Amerindian Community and Village grant applications), the GLSC will update the GIS and GLSC will notify the relevant Government offices within no less than thirty (30) days. This is to facilitate planning in those areas within the GLSC and the other respective ministries, commissions and offices (at a minimum, Ministry of Natural Resources ("MNR"), Guyana Geology and Mines Commission ("GGMC"), Guyana Forestry Commission ("GFC"), and Protected Areas Commission ("PAC").

- Private Stakeholders

12. The Ministry will ensure that it will budget for and schedule in time to meet with private Stakeholders affected by each land application (whether during an *Advance Field Visit*, *Primary Field Investigation Visit* or separate meeting). Efforts will be made to contact such Stakeholders with the assistance of other Government institutions that may already be engaging these individuals or groups, as well as organizations and civil society groups that may represent their interests regionally or nationally (forest producer associations, agricultural unions, mining associations, etc.).

13. Where the Government of Guyana is considering lease/permit/concession cancellations, relocations, or non-renewals of existing third party rights or interests, during Consultations the Private Stakeholders will be apprised of their rights and options, engaged directly on the applicable processes and timelines, and informed of the availability and accessibility of the Amerindian Land Titling Grievance Redress Mechanism ("ALT GRM").

### III. GOOD FAITH CONSULTATIONS

- Basic elements

14. To ensure the proper carrying out of good faith Consultation processes with Stakeholders -- whether conducted by or through the Ministry or any other ministry or commission that may be engaging Stakeholders on matters related to the Amerindian lands titling process—the Government of Guyana will:

- a) Actively consult with the relevant Community, Village or other Stakeholders throughout the process of titling.
- b) Ensure in a transparent manner that all relevant information is available in a language and a format that are easily understood within sufficient time periods to allow for comprehensive review and consideration.

*This may require, among others, the use of translation and interpretation services, oral summaries of complex written information; technical assistance, as well as an activity timeline that accommodates the necessary periods for the transmission of notices, agendas, and documentation, as well as decision-making.*

- c) When Communities/Villages are involved, conduct Consultations in a manner that is culturally appropriate and consistent with the customs and traditions of the Amerindians in question.

*To ensure such Consultations, the following checklist will be discussed: (i) their forms of decision making consistent with their customs and traditions (including how decisions are made and who has the authority to make decisions); (ii) language; (iii) literacy rates; (iv) preferences/needs in terms of effective means of communication (written, oral, pictorial etc.); (v) identification of Community/Village elders or other individuals designated by the Community or Village to share information about their lands; (vi) need for technical assistance to facilitate understanding of critical maps and documents; and (vii) other cultural protocols, customs and practices around Community/Village information sharing, negotiations and decision-making that may affect exchanges (i.e. access to vulnerable populations, protocols for engaging certain individuals (women, shamans, etc.), or discussing certain topics (i.e. sacred sites and rituals).*

- d) Maintain constant communication, including through regular updates on the status of a titling activity and establishment of methods for receiving inputs and providing prompt feedback.

*Consultations shall identify individuals responsible for communicating for each of the parties involved and the best format to reach said individuals.*

- e) Provide at least two (2) weeks' notice of all proposed Consultations to the Stakeholder in question identifying the purpose of the Consultation, the anticipated participants, and notice of any available funds to assist Stakeholders in convening their meeting and/or gathering their relevant constituencies and/or members.
- f) Ensure informed Consultation through the prior provision of relevant information (material describing Guyana's titling process, maps, applications requests, Ministerial decisions, details about third party rights and interests and their status going forward, potential overlapping claims of others (including other Villages and Communities), investigative reports, etc.).

*The Ministry will provide all physical materials to be presented during the Consultation at least two (2) weeks in advance (this should include background material on the titling process, a copy of applications received, the proposed agenda, and all maps and other relevant documents (where materials such as maps are only in "draft" form, they will be marked as such to avoid misuse or misinterpretation in the future)).*

- g) Track and log each Consultation along with its outcome document (the latter to be shared with all participating parties).

The Government will maintain a record of every Consultation (time, location, identification of parties in attendance, copy of Minutes and any other relevant Outcome Document). Unless otherwise agreed with the Stakeholders in question, if the Ministry is present in Consultations related to the titling of Amerindian lands, it

shall be responsible for maintaining the record and elaborating Minutes to be reviewed and signed before the close of the meeting. Beneath the phrase “affirmed as true and signed freely by the parties”, the authorized representative for each of the participating parties will make their mark.

Minutes will be prepared for all Consultations including those attached to all field visits, surveys, demarcation and other FPIC activities.

Such Minutes, at a minimum, will include a description of all key matters and timelines discussed, agreed upon, and left pending for further comment or action. These include the mutual understandings reached on the matters listed in Paragraph 15 below.

Where the Consultations are with Communities or Villages, it will be confirmed that the Village Toshao or the head of the Community Council is the authorized representative for signing the Minutes unless the Community or Village designates otherwise.

Copies of all Minutes and any other outcome documents concluded during the meeting will be sent to the Village, Community, and other participating Stakeholders no later than two (2) weeks after the close of meeting.

- Pre-Consultation: Mutual Understandings with Stakeholders

15. The Government should reach mutual understandings with the Stakeholder, no later than during the *Primary Field Investigation Visit* and prior to engaging in comprehensive Consultations. These mutual understandings will be reflected in the Minutes and will address, at a minimum, the following issues:

- a) Identify the issues to consult upon (as known at that stage), and periodic mechanisms to update these issues depending on changing circumstances. In the case of engaging Amerindians on the processing of land titles, Consultations will be required, at a minimum, in the context of:

- (i) *verifying the grant application request;*

- (ii) *conducting any field investigation visits (Advance Field Visit, Primary Field Investigation Visit, or other);*

- (iii) *surveying the lands in question (which will also require Amerindian participation);*

- (iv) *demarcating the lands in question (which will also require Amerindian participation);*

- (v) *preparing and completing the Ministry's Field Investigation Report;*

- (vi) *carrying out all activities that will eventually require FPIC (identified below); and*



*(vii) any other activity as identified through agreement between the Government and Amerindians in question.*

- b) where Consultations are with Amerindians, identify the activities that will require FPIC. At a minimum, the relevant Amerindians Community or Village will need to give prior approval to the following:

*(i) the Minister's decision on the grant application before submission to the Cabinet;*

*(ii) any subsequent change to the Minister's decision before submission to the President (i.e. per suggestions by the Cabinet or other);*

*(iii) Commencement of Surveying and Demarcation;*

*(iv) the Completed Survey and Demarcation exercise;*

*(v) the proposed Final Cadastral Plan before submitted for registration; and*

*(vi) any other activity as identified through agreement between the Government and Amerindians in question.*

- c) Define the schedule of the titling process (anticipated timelines and activities, future Consultations, etc.);

- d) Discuss who needs to participate in various Consultations;

*Not all Stakeholders must be included in every Consultation (a Village may say only the Village Council or a specific Village land team need participate).*

*Stakeholders also may wish to be consulted separately (i.e. first with Amerindian Villages and in a different meeting with forest producers or miners)*

- e) Identify who has the authority for each Stakeholder to negotiate, make recommendations and express agreement. Where Consultations are with Amerindians, identify the decision-making customs and practices of the people. (See also Section IV (FPIC) below).

- f) Agree on methods of information disclosures depending on scale and complexity of project, diversity of Stakeholders and cultural appropriateness.

*The Government and Stakeholders will need to factor into the budget and logistics the fact that sometimes simple communications and the sending of physical documents are made difficult by existing infrastructure. For this reason, Stakeholders will cooperate and whenever possible, assist the Ministry and each other in the transmission of information.*

*Recognizing the challenges, Stakeholders will make efforts to be creative where necessary and increase their use, as necessary, of one or more of the following methods identified as available in Guyana (not an exhaustive list): radios; Jet boats and flights to the interior;*

*Ministry CDOs; Ministry database of communities/villages; Toshao phone numbers and emails; walk-ins to the Ministry; local offices of GGMC, hinterland offices GFC, PAC, and GLSC; Regional Democratic Council (RDC); communication networks and relay systems of Stakeholder NGO/CSOs, and association, local/regional newspapers; the Gazette, and points of community gatherings such as church services and schools.*

- g) Determine the capacity needs of Stakeholders to ensure full, effective, and meaningful participation in Consultation processes.

*Identify if there are needs for technical expertise, mechanism to address those that are not literate, possible resources for Villages or organizations to inform and consult within their membership, etc.*

*Clarify special measures, if needed, to ensure that women, minorities, young, elderly, disabled, and vulnerable populations will be able to participate (i.e. scheduling meetings to avoid conflict with harvest times, obstacles to movements during the rainy season, meeting locations that maximize access and attendance).*

- h) Determine (if known at the time), whether there may be a need in future Consultations for the involvement of other individuals or institutions in the process.

*This could mean the addition of a Government institutions not currently present (i.e. the MNR, the Ethnic Relations Commission), independent observers, a holder of a third party right or interest with whom discussions would be helpful, as well as representatives of neighboring Amerindian Villages or Communities.*

*This Guideline has clarified that where neighboring Amerindian Villages or Communities may have potentially overlapping rights and interests with the applicant, including but not limited to common boundaries, overlapping claims, and shared resource use areas, measures must be taken to ensure that they are properly consulted at all relevant times (preferably together, or separately if that is the only way).*

*It is further acknowledged that every Stakeholder also has a right to bring to a Consultation their designated technical or legal advisor.*

- i) Discuss if a Mediator or Facilitator is needed.

*A Mediator typically has more authority than a Facilitator and is therefore more active in the process, but in both cases, the appointment of the expert and their terms of reference would be agreed to by the parties.*

- j) Discuss methods for securing participatory evaluations of the Consultations and Stakeholder Engagements to assess for improvements.

*This may include, for example, receiving feedback at the end of Consultations from participants, fostering communications directly with members of the Representative Platform.*

## VI. FREE, PRIOR AND INFORMED CONSENT

16. FPIC is an outcome that begins with Consultations and ends with evidence in writing of an agreement or if agreement is withheld and there is no consent, the conclusions of the FPIC process (the "*Outcome Document*"). Consequently, the requirements of Paragraphs 14 and 15 apply to all FPIC processes because all FPIC processes are also Consultations.
17. Amerindian land titling activities that may adversely affect the existence, value, use or enjoyment of indigenous lands, resources or territories shall not be conducted unless agreement has been achieved through the FPIC process. The activities requiring the prior approval of the Amerindians in question have been listed above in Paragraph 15(b) above.
18. Where FPIC is required, the following will also apply:

- a. *Free*

'Free' refers to a process that is self-directed by the Village or Community from whom consent (FPIC) is being sought, unencumbered by coercion, expectations or timelines that are externally imposed. To guarantee that the Village/Community FPIC is given freely, all conditions that might otherwise create an environment of duress or coercion will be prohibited. This includes but is not limited to: unauthorized contact with Village/Community members, bribes, intimidation and inducements, rushed decision-making, and assertions that no money will be available if the Community or Village does not approve of the activity or requires more information or time for decision making.

Wherever possible and consistent with Applicable Law, the Government recognizing that the threat of awards of *new* grants, licences, permits, leases and concessions to third parties creates undue pressure on the Communities and Villages, the Government ministries and commissions overseeing such awards will endeavour to implement measures to relieve that pressure in areas known to be under applications or otherwise set aside for Amerindian Villages.

- b. *Prior*

'Prior' means consent is sought sufficiently in advance of the commencement of an activity, prior to its finalization and/or submission as final, whichever the case may be. Prior implies that adequate time is provided for the Community or Village to receive, understand, and analyse information on the matter requiring their prior consent. The amount of time required will depend on, among others, the complexity of the information, the capacity and the decision-making processes of the respective Community or Village. These are matters to be discussed with the Community and Village during the first meeting with the Government (per Paragraph 15 above).

c. *Informed:*

'Informed' refers mainly to the nature of the engagement and type of information that should be provided to the Community or Village prior to seeking their consent. Information should:

- (i) Be accessible, clear, consistent, accurate, constant, and transparent.
- (ii) Be delivered in appropriate language and culturally appropriate format (*for example, if only a few Villagers read, emphasis must be on oral and pictorial descriptions as well as the possible need for repetition and reinforcement*).
- (iii) Be objective, covering both the positive and negative potential of a particular decision or activity requiring consent (*i.e. consequences of approving a decision on a land application that excludes a protected area should be explained and understood, as should the benefits of accepting demarcation so that a certificate of title can be secured*).
- (iv) Be complete, covering all relevant information (*see paragraphs 42 and 44 in Part I above*)
- (v) Reach the maximum number of Community and Village members (*this may require assistance to the Village Councils and Community leaders, whenever possible within resource constraints*).
- (vi) Be provided on an ongoing and continuous basis throughout the FPIC process (*where Consultations have produced questions requiring subsequent clarifications, or draft maps requiring updating, the Government should take steps to maintain communications throughout the process*).

d. *Decision-making*

The Amerindian Act does not *expressly* address how decisions are to be taken by the Community or Village on all FPIC matters described in this Guideline.<sup>29</sup> As a part of the Consultation and FPIC processes, the Amerindian Community or Village will explain to the Government its customary forms of decision-making, if any (see Paragraph 14(c) above). For purposes of FPIC under this Guideline, unless otherwise specified by the Community or Village at the onset of Consultations (see paragraph 15(e) directly above), consent will be evidenced

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<sup>29</sup> The Amerindian Act (2006) expressly requires a decision by 2/3 of the Village Assembly (Village) or the adult members of a Community in cases of: adoption of a Village rule or amendment (Sec. 15); consent to miners who wishes to carry out mining activities on Village lands or in any river, creek, stream or other source of water within the boundaries of Village lands (48(1)); consent to a person (not a resident) who wishes to use forest produce from Village lands shall (55); and Village applications for an extension (59) or Community applications for a grant of State Land (60).

through a resolution approved by two thirds (2/3) of the Village or Community general meeting, provided that, at all times, there will be full respect and accommodation for:

- (i) the Community or Village's customary forms of decision-making that lead up to the general meeting;
- (ii) the Village Council's right to determine quorum, entitlement to vote (eligibility) and voting procedures;<sup>30</sup>
- (iii) the Village's right under the Act, to decide to take decisions not expressly set aside for the 2/3 vote on the basis of consensus or majority vote of all votes cast<sup>31</sup>; and
- (iv) agreements between the Ministry and Community or Village for alternative decision-making within the Village or Community.

e. *Outcome Document*

Community or Village consent on the matters identified as requiring FPIC must be evidenced in writing. This can be satisfied in the form of the resolution approved by the Village or Community general meeting if in writing; or a written agreement between the Government and the Community or Village. The resolution and the agreement between the parties must both clearly describe the matter being approved along with any limitations or conditions to the same.

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<sup>30</sup> Amerindian Act (2006), Sec. 34(8).

<sup>31</sup> Amerindian Act (2006), Sec. 34(1) & (2) the Act does provide that the collective rights of a Village (i.e. Property Rights) are exercised by the Village and all decisions required to be made under the Act, but not expressly set aside for a 2/3 vote by the Act, are to be made per a Village general meeting in an emergency meeting or a meeting set with at least fourteen (14) days prior notice, acting by consensus, and if consensus cannot be achieved, on the basis of the majority of votes cast. (34(3)(4) (5) & (6)).

## PART III

### GRIEVANCE REDRESS MECHANISM (GRM) FOR THE AMERINDIAN LAND TITLING PROCESS

There will be established an Amerindian Land Titling Grievance Mechanism (“*ALT GRM*”).

#### **I. Mandate**

The mandate of the ALT GRM will be to:

- (i) receive and address any concerns, complaints, notices of emerging conflicts, or grievances (collectively “*Grievance*”) alleging actual or potential harm to affected person(s) (the “*Claimant(s)*”) arising from the titling of indigenous peoples’ lands, resources and territories<sup>32</sup>;
- (ii) assist in resolution of Grievances between and among Stakeholders to the Amerindian land titling process – including, but not necessarily limited to the direct Beneficiaries, the indigenous peoples themselves; as well as the various government ministries, agencies and commissions, Amerindian CSOs and NGOs, and other natural resource users (collectively, the “*Stakeholders*”);
- (iii) Conduct itself at all times in a flexible, collaborative, and transparent manner aimed at problem solving and consensus building.

#### **II. Functions**

The functions of the ALT GRM will be to:

1. Receive, Log and Track all Grievances received;
2. Provide regular status updates on Grievances to Claimants, ALT GRM Liaison Institutions and other relevant Stakeholders, as applicable;
3. Engage the Ministry of Indigenous People’s Affairs (“*Ministry*”), ALT GRM Liaison Institutions (defined at section IV below) and other relevant Stakeholders in Grievance resolution;
4. Process and propose solutions and ways forward related to specific Grievances *within a period not to exceed sixty (60) days* from receipt of the Grievance;
5. Identify growing trends in Grievances and recommend possible measures to avoid the same;
6. Receive and service requests for, and suggest the use of, mediation or facilitation;
7. Elaborate bi-annual reports, make said reports available to the public, and more generally work to maximize the disclosure of its work (including its reports, findings and outcomes)
8. Ensure increased awareness, accessibility, predictability, transparency, legitimacy, and credibility of the GRM process;
9. Collaborate with ALT GRM Liaison Institutions (*defined below*) and other NGOs, CSOs and other entities to conduct outreach initiatives to increase awareness among Stakeholders as to the existence of the ALT GRM and how its services can be accessed;

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<sup>32</sup> For purposes of this ALT GRM, titling of indigenous peoples’ lands, resources and territories means the process that begins with a Community or Village request, the investigation, issuance of an Absolute Grant, survey and demarcation, through to final issuance by the Government of Guyana of a Certificate of Title.

10. Ensure continuing education of ALT GRM staff and ALT GRM Liaisons and their respective institutions about the relevant law, policy and Amerindian issues that they will need to be aware of to participate in the development of effective resolutions to Grievances likely to come before the GRM; and
11. Any additional activities the ALT GRM Monitoring Team instructs and for which required funding is available.

### III. Composition

The ALT GRM will be composed of:

- (a) one and a half staff members: The ALT GRM Director ("*Director*") and the ALT GRM Secretary ("*Secretary*") (part-time) hired by the UNDP during the life of the Amerindian Land Titling ("*ALT*") Project and then by the ALT GRM Monitoring Team designated below at section XIV), in accordance with the terms of reference drafted by the United Nations Development Programme ("*UNDP*") and approved by the ALT Project Board;
- (b) three (3) ALT GRM Liaisons appointed from the following institutions: the Ministry, Guyana Lands and Survey Commission ("*GLSC*"), and the National Tshaos Council ("*NTC*") --with the other liaisons listed at section IV below being co-opted when the Grievance submitted so requires it (their respective institutions responsible for remuneration, if any).

### IV. ALT GRM Liaisons

Each of the following institutions (collectively, the "ALT GRM Liaison Institutions") listed below will appoint a liaison to the ALT GRM (the "*ALT GRM Liaisons*") from within their own existing staff:

1. Ministry;
2. Ministry of Natural Resources ("*MNR*");
3. Guyana Forestry Commission ("*GFC*");
4. Guyana Geology and Mines Commission ("*GGMC*");
5. *GLSC*;
6. Protected Areas Commission ("*PAC*");
7. Indigenous Peoples Commission ("*IPC*");
8. *NTC*;
9. National Indigenous Peoples' Organisations, and the
10. UNDP.<sup>33</sup>

The Ministry and the other ALT GRM Liaison Institutions will endeavor to take all necessary measures to provide assistance to the ALT GRM and ensure its success, timely and effective resolution of Grievances in accordance with Applicable Law.<sup>34</sup>

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<sup>33</sup> The UNDP will be a member of the ALT GRM Liaison group for as long as the ALT Project exists with UNDP involvement in the same.

<sup>34</sup> "Applicable Law" is national law and other obligations of the Government under international law, whichever is the higher standard.

## **V. Offices**

The ALT GRM will have its Main Offices located within the Ministry headquarters in Georgetown.

The Director and Secretary and any additional staff that may be hired in the future will occupy the office. The respective ALT GRM Liaisons will maintain the offices they already have within their respective ministries or commissions. They will be engaged when needed in accordance with this Guideline.

## **VI. Work Plan and Budget**

The Director, in Consultation with the ALT GRM Liaisons, will prepare a work plan and submit it to the ALT Project Board. The ALT Project Manager (“ALT PMU”) will prepare a corresponding budget for approval by the ALT Project Board.<sup>35</sup>

The initial funding for the ALT GRM and through to the end of year 2017 --including cost for its establishment, staff salaries, and working budget to carry out effective operations-- will be drawn from the remainder of the *ALT Project* budget lines dedicated to relevant activities, including the funds dedicated to alternative mechanisms for resolving land titling disputes.

## **VII. Communicating a Grievance**

### *(i) Who can Submit a Grievance?*

A Grievance can be sent by any individual or group of individuals that believes it has been or will be harmed by the titling process related to indigenous peoples’ lands, resources and territories in Guyana and/or alleges an emerging or actual conflict between and among Stakeholders to the Amerindian land titling process.

If a Grievance is to be lodged by a different individual or organization on behalf of those said to be affected, the Claimant must identify the individual and/or people on behalf of who the Grievance is submitted and provide written confirmation by the individual and/or people represented that they are giving the Claimant the authority to present the Grievance on their behalf. The ALT GRM will take reasonable steps to verify this authority.

### *(ii) How is the Grievance Communicated?*

The ALT GRM shall maintain a flexible approach with respect to receiving Grievances in light of known local constraints with respect to communications and access to resources for some Stakeholders. A Grievance can be transmitted to the ALT GRM by any means available (i.e. by radio, letter, phone call, SMS, etc.). The contact information is the following:

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<sup>35</sup> Where Amerindian land titling occurs outside of the ALT Project, the ALT GRM work plan will be submitted to the institution responsible for carrying out said titling and preparing the budget for the same.



ALT GRM  
Ministry of Indigenous People's Affairs  
First Floor  
251-252 Quamina & Thomas Streets.  
South Cummingsburg  
Georgetown, Guyana  
Tel: 592 225 5675  
Email: altprojectgy@gmail.com  
Radio channel(s): [**to be assigned**]

To facilitate communications with and between the ALT GRM and potential Claimants, the ALT GRM will receive support from the ALT project and the ALT GRM Institutions

*(iii) What information should be included in a Grievance?*

The Grievance should include the following information:

- (a) the name of the individual or individuals making the Complaint (the "Claimant");
- (b) a means for contacting the Claimant (email, phone, address, radio signal, other);
- (c) if the submission is on behalf of those alleging a potential or actual harm, the identity of those on whose behalf the Grievance is made, and written confirmation by those represented of the Claimant's authority to lodge the Grievance on their behalf;
- (d) the description of the potential or actual harm;
- (e) Claimant's statement of the risk of harm or actual harm (description of the risk/harm and those affected, names of the individual(s) or institutions responsible for the risk/harm, the location(s) and date(s) of harmful activity);
- (f) what has been done by Claimant thus far to resolve the matter;<sup>36</sup>
- (g) whether the Claimant wishes that their identity is kept confidential; and
- (h) the specific help requested from the ALT GRM.

*(iv) Confidentiality*

The ALT GRM cannot accept anonymous Grievances, but, if requested by the Claimant, the Claimant's name(s) can be maintained confidential from all but the Director and Secretary and redacted from any future reports or other briefings and statements otherwise shared by the ALT GRM.

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<sup>36</sup> The ALT GRM is not meant to be the first entity of approach where a Grievance arises. Claimant is encouraged and will be asked to demonstrate specific efforts they have made to resolve the matter with the other party(ies) before approaching the ALT GRM.

## **VIII. Logging, Acknowledgment, and Tracking**

All Grievances and reports of conflict will be received, assigned a tracking number, acknowledged to Claimant, recorded electronically, and subject to periodic updates to the Claimant as well as the office file.

Within one (1) week from the receipt of a Grievance, the ALT GRM will send a *written* acknowledgement to Claimant of the Grievance received with the assigned tracking number.<sup>37</sup>

Each Grievance file will contain, at a minimum:

- i. the date of the request as received;
- ii. the date the written acknowledgment was sent (and oral acknowledgment if also done);
- iii. the dates and nature of all other communications or meetings with the Claimant, any of the ALT GRM Liaisons or other relevant Stakeholders;
- iv. any requests, offers of, or engagements of a Mediator or Facilitator;
- v. the date and records related to the proposed solution/way forward;
- vi. the acceptance or objections of the Claimant (or other Stakeholders);
- vii. the proposed next steps if objections arose;
- viii. the alternative solution if renewed dialogues were pursued;
- ix. notes regarding implementation; and
- x. any conclusions and recommendations arising from monitoring and follow up.

## **IX. Maintaining Communication and Status Updates**

Files for each Grievance will be available for review by the Claimant and other Stakeholders involved in the Grievance, or their designated representative(s). Appropriate steps will be taken to maintain the confidentiality of the Claimant if previously requested.

The Director will provide periodic updates to the Claimant regarding the status and current actions to resolve the Grievance. Not including the acknowledgment of receipt of the Grievance, such updates will occur within reasonable intervals (not greater than every thirty (30) days).

## **X. Investigation and Consensus Building**

Within one (1) week of receiving a Grievance, the Director will notify the Minister, the GLSC, NTC, the IPC, UNDP,<sup>38</sup> and any other relevant institutions (through their respective ALT GRM Liaisons) of the receipt of the Grievance. If the Grievance involves an allegation that there has been any breach of duty, misconduct or criminal offence on the part of any officer or employee of one of the ALT GRM Liaison Institutions, without prejudice to the ALT GRM's continued capacity to address the Grievance, the Director shall also notify the Ombudsman of Guyana.

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<sup>37</sup> Oral acknowledgments can be used for expediency (and also recorded), but must be followed by a written acknowledgment.

<sup>38</sup> For as long as the ALT Project continues and the UNDP remains involved in the same.

The Director will promptly engage the Claimant, relevant ALT GRM Liaisons, and any other Stakeholders deemed appropriate, to gather all necessary information regarding the Grievance.

If deemed appropriate, the Director will identify a specific team of individuals drawn from the ALT GRM staff and/or the ALT GRM Liaisons and their respective institutions to address the matter. The names of these individuals will be made available to the Claimant.

Through their respective ALT GRM Liaisons, the Director will have the authority to request from relevant Government institutions any information (documents or otherwise) relevant to resolving the Grievance and avoiding future Grievances of the same nature.

As necessary, the Director and/or designated team members will convene one or more meetings with relevant individuals and institutions in Georgetown, or elsewhere in Guyana as needed.

The objective of all investigative activities is to develop a thorough understanding of the issues and concerns raised in the Grievance and facilitate consensus around a proposed solution and way forward.

The Ministry and all other ALT GRM Liaison Institutions will procure the cooperation of their respective staff and members with the investigation.

#### **XI. Initiating a field Investigation**

At any point during the investigation, the Director may determine that an onsite field investigation is necessary to properly understand the Grievance and develop an effective proposed solution and way forward.

The Director may request the presence of one or more of the ALT GRM Liaisons or other representatives from relevant Government institutions or other relevant Stakeholders on the field investigation. The ALT GRM will pay for the expenses of the additional participants that it formally invites.

#### **XII. Seeking Advisory Opinion and/or Technical Assistance**

At any point after receiving a Grievance and through to implementation of the proposed solution and way forward, the Director may seek the technical assistance and/or an advisory opinion from any entity or individual in Guyana or internationally which may reasonably be believed to be of assistance.

#### **XIII. Making Proposed Actions and Solutions Public and Overseeing Implementation**

The Director will communicate to the Claimant one or more proposed actions or resolutions and clearly articulate the reasons and basis for proposed way forward.

If the Claimant does not accept the resolution, the Director will make one of the following recommendations:

- (i) advise a return to dialogue with the ALT GRM and other relevant Stakeholder to seek out alternative resolutions;
- (ii) propose the use of mediation/facilitation (if not already engaged); or

- (iii) suggest transfer to another dispute resolution/grievance mechanism (GLSC Dispute Resolution Committee; the Ombudsman’s office; project/institutional mechanisms (e.g. UNDP Stakeholder Response Mechanism); domestic courts, other administrative measures available within Guyana, etc.).

If the Claimant accepts the proposed solution and way forward, the ALT GRM will continue to monitor the implementation directly and through the receipt of communications from the Claimant and other relevant parties. As necessary, the ALT GRM may solicit information from the relevant parties and initiate renewed dialogue where appropriate.

#### **XIV. Monitoring and Evaluation**

Bi-annually, the ALT GRM will submit to the Minister, ALT PMU, ALT GRM Liaison Institutions, and the ALT Project Board,<sup>39</sup> and make available to the public, a report describing the work of the ALT GRM, listing the number and nature of the Grievances received and processed in the past six months, a date and description of the Grievances received, resolutions, referrals and ongoing efforts at resolution, and status of implementation of ongoing resolutions. The level of detail provided with regard to any individual Grievance will depend on the sensitivity of the issues and Stakeholder concerns about confidentiality, while providing appropriate transparency about the activities of the ALT GRM. The report will also highlight key trends in emerging conflicts, Grievances, and dispute resolution, and make recommendations regarding:

- (i) measures that can be taken by the Government to avoid future harms and Grievances; and
- (ii) improvements to the ALT GRM that would enhance its effectiveness, accessibility, predictability, transparency, legitimacy, credibility, and capacity.

An independent team of individuals appointed by the Representative Platform (not to exceed five (5) people, including a representative from the Ministry) (“*ALT GRM Monitoring Team*”) will review the work of the ALT GRM after its first year of operation, and every two years thereafter (among other issues, this team will review the continued appropriateness of the ALT GRM having its physical location within the Ministry offices, the preparation of the budget by the ALT PMU, and the approval of its budget by the ALT Project Board).<sup>40</sup> To do this work, it will have access to the ALT GRM reports and files, the capacity to access and communicate with Claimants, ALT GRM Liaison Institutions and relevant Stakeholders, and the mandate to evaluate the ALT GRM system and make recommendations for improvements.

#### **XV. Mediation and Facilitation**

Upon requests from parties striving to address their Grievances among themselves, or per the initiation by the ALT GRM itself and with the consent of the Stakeholders involved, the ALT GRM will strive to provide mediators and/or facilitators with the experience and competence to assist the parties in the resolution of their Grievances.

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<sup>39</sup> If Amerindian land titling takes place outside of the ALT Project, the ALT GRM bi-annual reports will be submitted to the entity responsible for carrying out the titling.

<sup>40</sup> If the ALT Project ends and the budget is prepared and approved by another entity, the ALT GRM Monitoring Team will review this arrangement as well.

The ALT GRM will make efforts to identify competent mediators and facilitators both within ALT GRM Liaison Institutions and elsewhere (domestically and internationally), to address the need for mediation and facilitation. A list of competent mediators and facilitators will be kept within the ALT GRM.

#### **XVI. Local Dispute and Grievance Resolution**

The ALT GRM shall encourage, and within their resources, strive to provide support when asked to any Amerindian Communities, Villages and local Stakeholders seeking to amicably resolve their differences and Grievances among themselves.

Those involved in local reconciliation talks will be encouraged to:

- (a) inform the ALT GRM of the same;
- (b) notify the ALT GRM if they need assistance and resources of any kind (e.g. maps, a mediator/facilitator, technical clarifications, agreement drafting support); and
- (c) put their agreements in writing and submit a copy to the ALT GRM which will copy the same to the Ministry and other relevant ALT GRM Liaison institutions.

#### **XVII. Capacity Building**

Recognizing that Grievance avoidance and resolution can benefit from increased knowledge and awareness of the relevant law, policy and issues surrounding the titling, protection and promotion of indigenous peoples' lands, resources and territories, together with the Ministry, NTC, GLSC, and IPC, the ALT GRM will take reasonable steps to continually educate and increase the capacity of its staff, its ALT GRM Liaison institutions and other Stakeholders.

Within the first ninety (90) days of its establishment, the Director will procure, in Consultation with the ALT GRM Liaisons and the approval by the ALT Project Board, one or more experts to provide training to its staff, the ALT GRM Liaison Institutions (at a minimum the ALT GRM Liaisons), and other relevant Stakeholders on domestic and international law and policies that may affect the indigenous peoples' lands, resources and territories (including those related to mining, forestry concessions, and protected areas. This initial capacity session, not to be less than three (3) days, will also include one or more Amerindian representatives with the expertise to educate participants on Village and Community dispute resolution mechanisms, indigenous physical, cultural and spiritual attachments to lands and resources, traditional uses and occupancy, shared resource use with neighboring communities/villages, traditional livelihoods, and preferably experiences with indigenous-led mapping activities.

All persons serving as a Director, Secretary, or ALT GRM Liaisons will attend the capacity session above, or one with similar content.

Additional trainings and capacity sessions will be provided, if funding is available.

## **XVIII. The Land Commission**

The Presidency has made repeated calls for the establishment of a Land Commission (sometimes referred to as a Hinterland Commission, or Amerindian or Indigenous Peoples Land Commission). Name notwithstanding, should such a Commission be established and authorized to engage in and make recommendations related to the titling of and the respect for and protection of indigenous peoples' rights to the lands, resources, and territories they have traditionally owned, occupied or otherwise used or acquired, the ALT GRM may seek technical assistance and advisory opinions from the Commission per section XII. The Ministry, NTC, GLSC, and IPC, in Consultation with the remaining ALT GRM Liaison Institutions, will further reconcile the distinctive and complementary roles of the ALT GRM and the Commission in addressing Grievances aiming at all times to increase the effectiveness of the mechanism.

## **XIX. Without Prejudice**

The existence and use of this GRM is without prejudice to any existing rights under any other complaint mechanisms that an individual or group of individuals may otherwise have access to under national or international law or the rules and regulations of other institutions, agencies or commissions involved in land titling.





MEMBERS OF THE  
AMERINDIAN LAND TITLING PROJECT  
REPRESENTATIVE PLATFORM